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*MPH TECHNOLOGIES OY*

**UNITED STATES DISTRICT COURT**  
**NORTHERN DISTRICT OF CALIFORNIA**  
**SAN FRANCISCO DIVISION**

MPH TECHNOLOGIES OY,

Plaintiff,

vs.

APPLE INC.,

Defendant.

Case No. 3:18-cv-05935-TLT

**DECLARATION OF JAMES D.  
MITCHELL IN SUPPORT OF  
PLAINTIFF'S UNOPPOSED  
MOTION TO REFER DISCOVERY  
DISPUTE LETTER-MOTIONS TO  
MAGISTRATE JUDGE**

Date: August 27, 2024 (or earlier as  
ordered by the Court)  
Time: 2:00 P.M.  
Place: San Francisco Courthouse,  
Courtroom 9  
Judge: Hon. Trina L. Thompson

1 I, James D. Mitchell, declare as follows:

2 1. I am an attorney with the law firm of Lee Sheikh & Haan LLC, counsel for Plaintiff  
3 MPH Technologies Oy (“MPH”). I am licensed to practice law in the State of Illinois. I have personal  
4 knowledge of the matters stated herein and am competent to testify thereto. I submit this declaration in  
5 support of Plaintiff’s Unopposed Motion to Refer Discovery Dispute Letter-Motions to Magistrate  
6 Judge.

7 2. On May 17, 2024, MPH contacted Apple to ask if Apple would oppose a motion to refer  
8 all pending and future discovery motions to a magistrate judge. On May 20, 2024, Apple responded to  
9 MPH’s email indicating that it would not oppose MPH moving for such a referral, provided MPH  
10 included Apple’s comments in the motion. Attached hereto as **Exhibit A** is a true and correct copy of  
11 the May 17–20, 2024 email chain between counsel for MPH and counsel for Apple.

12 3. On June 3, 2024, MPH further discussed the instant motion on a phone call with Apple,  
13 at which time Apple confirmed that it would not oppose the motion.

14 4. On April 15, 2024, MPH emailed the Courtroom Deputy, while copying Apple, stating  
15 that it believed the parties would benefit from, and requested, guidance from the Court on whether the  
16 Court would issue an order directing the parties to submit the further joint case management status  
17 report identified in the Court’s Standing Order for Patent Cases. Following the Apple’s response and  
18 MPH’s reply email, the Courtroom Deputy informed both parties that the request had been “brought  
19 [ ] to chambers’ attention and [was] awaiting a response/directive as how to proceed.” Attached hereto  
20 as **Exhibit B** is a true and correct copy of the April 15–17, 2024 email chain between the Courtroom  
21 Deputy and counsel for all parties.

22 5. In advance of the March 19, 2024 hearing on MPH’s Partially Agreed Motion for Leave  
23 to Amend Infringement Contentions, MPH received an email from the Court with an attachment having  
24 questions from the Court the parties were to address either in writing or at the hearing on the Motion  
25 for Leave to Amend. Attached hereto as **Exhibit C** and **Exhibit D**, respectively, are true and correct  
26 copies of: the Court’s March 19, 2024 email to the parties; and the Court’s Questions re MPH’s Motion  
27 for Leave to Amend Infringement Contentions.  
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6. In advance of the March 19, 2024 hearing on MPH's Motion for Reconsideration of the Court's Finding That The '581 Patent Claims Are Indefinite, MPH received an email from the Court with two attachments: 1) a document having questions from the Court the parties were to address either in writing or at the hearing on the Motion for Reconsideration; and 2) a Tentative Ruling Granting MPH's Request to Revise Order Construing the '581 Patent Claims 6, 7, and 8 Under Fed. R. Civ. P. 54(b). Attached hereto as **Exhibit E**, **Exhibit F**, and **Exhibit G**, respectively, are true and correct copies of: 1) the Court's March 19, 2024 email to the parties; 2) the Court's Questions regarding MPH's Motion for Reconsideration; and 3) the Court's Tentative Ruling Granting MPH's Motion for Reconsideration.

7. While MPH's Partially Agreed Motion for Leave to Amend Infringement Contentions has been pending, and since the Court's claim construction ruling on January 3, 2024, MPH has largely avoided conducting discovery on a number of issues that may be impacted by the Court's ruling on that Motion.

8. Also, since the Court's claim construction ruling on January 3, 2024 declaring the U.S. Patent No. 7,937,581 ("581 patent) claims indefinite and, thus, invalid, neither party has conducted discovery on issues that are solely directed to potential infringement, validity, or damages relating to the '581 patent.

9. While the two aforementioned Motions have been pending, MPH has vigorously pursued discovery on issues related to the lone remaining patent in the case, U.S. Patent No. 8,037,302 ("302 patent").

10. However, the parties have been at a standstill for many months on issues related to discovery regarding the '302 patent, including issues that are the subject of MPH's discovery dispute letter-motions (ECF Nos. 128, 129, 130, 132, and 133).

11. Guidance from the Court on these discovery dispute letter-motions is necessary for MPH to conduct meaningful and timely discovery on these issues.

1 I declare under penalty of perjury that the foregoing is true and correct and that this Declaration  
2 was executed this 11th day of June, 2024 in Chicago, Illinois.

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4 /s/ James D. Mitchell  
5 James D. Mitchell  
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